

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

UNILOC 2017 LLC,

*Plaintiff,*

V.

GOOGLE LLC,

*Defendant.*

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Case No. 2:18-cv-00493-JRG-RSP

## REPORT AND RECOMMENDATION

Before the Court is a Motion for Summary Judgment Regarding Indefiniteness in View of the Claim Construction Order (“Motion”) (Dkt. 165), filed by Defendant Google LLC (“Google”).

**Dkt. No. 195.** After consideration, the Court recommends Google’s Motion be **GRANTED**.

Google argues that dependent claim 4 of U.S. Patent No. 6,836,654 (“the ‘654 Patent”) is invalid given the Court’s *Markman* Order holding that the claim recites an indefinite limitation. Specifically, the Court found the phrase “locking means for facilitating an activation of the block means by the timing means” in claim 4 is “a means-plus-function term” with a “claimed function” but a “lack of corresponding structure,” rendering the term “indefinite.” Dkt. No. 165 at 34. The Court explained its reasoning in its Claim Construction Order and adopts that same reasoning here. *See id.* at 32–34. Plaintiff Uniloc 2017 LLC (“Uniloc”) further recognized that claim 4 has been found indefinite, stating “[t]he Court adopted . . . one indefiniteness theory, which is applicable only to dependent claim 4.” Dkt. No. 172 at 11. Finally, Uniloc did not respond to the Motion.

For these reasons, the Court recommends that asserted claim 4 of the '654 Patent be found invalid as indefinite.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this report within 14 days bars that party from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Fed. R. Civ. P. 72(b)(2); *see also Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc). Any objection to this Report and Recommendation must be filed in ECF under the event “Objection to Report and Recommendation [cv, respoth]” or it may not be considered by the District Judge.

**SIGNED this 7th day of April, 2020.**

  
ROY S. PAYNE  
UNITED STATES MAGISTRATE JUDGE